

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEJUAN THORNTON,

Plaintiff,

v.

Case No. 11-13787

Honorable David M. Lawson

COMERICA BANK,

Defendant.

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ORDER OF DISMISSAL WITHOUT PREJUDICE

The plaintiff, a federal prisoner currently confined at the Administrative Maximum facility in Florence, Colorado, filed a *pro se* complaint seeking to access his bank account with defendant Comerica Bank. The plaintiff did not pay the filing fee, and instead instructed that the filing fee should be paid from the bank account at issue in this case. A Notice of Filing Fee Not Paid was issued on September 6, 2011. This Notice informed the plaintiff that he must pay the filing fee or file an application to proceed *in forma pauperis* within seven calendar days of the Notice or risk the dismissal of his complaint. On September 8, 2011, this Court ordered the plaintiff to show cause on or before September 13, 2011 why his case should not be dismissed for a failure to pay the filing fee. On September 19, the plaintiff filed his response to the Court's order to show cause in which he reiterated his request that the filing fee be paid from the bank account at issue in this case.

This Court has no authority to order that a filing fee be paid by a party other than the party filing a complaint with the Court. Further, the Court has no authority to direct that a filing fee be paid from a specified bank account, especially the disputed bank account in the custody of the defendant. The plaintiff did not pay the filing fee by the date ordered, nor has he applied for leave to file *in forma pauperis*. He must do one or the other within the time prescribed by the Court. *See*

Searcy v. County of Oakland, 735 F. Supp. 2d 759, 765-68 (E.D. Mich. 2010). Because the Court cannot order the defendant to pay the plaintiff's filing, regardless of the source of the funds (which is in dispute), and the plaintiff has not complied with the Court's show cause order, the Court must dismiss this complaint without prejudice. The plaintiff is free to refile the complaint upon payment of the filing fee or application for leave to file *in forma pauperis*.

Accordingly, it is **ORDERED** that the plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: September 23, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 23, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL